IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

CRP.No. 519 of 2007()

OP(ELE)141/2002 of ADDL.DISTRICT COURT-I,MAVELIKKARA
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REVISION PETITIONER: RESPONDENT:

POWER GRID CORPORATION OF INDIA LTD.,
TRANSMISSION SYSTEM OFFICE,NANGIARKULANGARA,
HARIPAD,KAYAMKULAM,REP.BY ITS GENERAL MANAGER.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENT: PETITIONER:

BALAKRISHNAN,KARUPPUTHARA,
CHINGOLI P.O.,

BY ADV. SRI.RASHEED C.NOORANAD

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 07/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

M.N. KRISHNAN, J.

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C.R.P. NO. 519 OF 2007

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Dated this the 7th day of December, 2007.

O R D E R

This revision petition is preferred against the award of the 1st Addl. District Judge, Mavelikkara in O.P.(Ele)141/02. By the said award the District Court has enhanced the compensation by Rs.28,393/- relying upon the dictum laid down in the decision ***Kumba Amma v. K.S.E.B. (2000(1) KLT 542).*** The learned counsel for the revision petitioner contends that by the decision of the Apex Court in ***K.S.E.B. v. Livisha (2007 (3) KLT page 1***) each case has to be decided on the facts and circumstances of each case. The Apex Court held as follows:

> "The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be determinative. The value of the land would also be a relevant factor. The owner of the land furthermore, in a

given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case."

2. So, in the light of the enunciated principles laid down by the Apex Court in the above said decision it appears that the matter requires fresh consideration for which additional documentary as well as oral evidence may be necessary. Therefore, the award passed by the Court below is set aside and the matter is remitted back to the trial court for fresh consideration in accordance with law in the light of the principles laid down in ***2007 (3) KLT page 1,*** after affording equal opportunities to both the sides to adduce evidence in support of their respective contentions. Parties are directed to appear before the Court below on 21.1.2008.

The C.R.P. is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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